

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

DEVORIS ANTOINE NEWSON,)	
)	
Plaintiff,)	
)	NO. 3:23-cv-00081
v.)	
)	JUDGE RICHARDSON
TRINITY SERVICES GROUP, INC., et al.,)	
)	
Defendants.)	

ORDER

Plaintiff Devoris Antoine Newson, currently confined at the El Paso County Sheriff's Department in Texas, filed an amended complaint arising from events at his former place of confinement, Trousdale Turner Correctional Center (TTCC). (Doc. No. 5, "Amended Complaint".) Plaintiff also filed an application to proceed as a pauper (Doc. No. 6) and a motion including a jury demand. (Doc. No. 7.) For the reasons stated in the accompanying Memorandum Opinion, the Court rules as follows:

I. Application to Proceed as a Pauper

Plaintiff's application to proceed as a pauper (Doc. No. 6) is **GRANTED**, and he is **ASSESSED** the \$350.00 filing fee as follows:

The custodian of Plaintiff's inmate trust account is **DIRECTED** to submit to the Clerk of Court, as an initial payment, "20 percent of the greater of—(A) the average monthly deposits to [the plaintiff's] account; or (B) the average monthly balance in [the plaintiff's] account for the 6-month period immediately preceding the filing of the complaint." 28 U.S.C. § 1915(b)(1). After the initial filing fee is fully paid, the trust account officer must withdraw from Plaintiff's account and pay to the Clerk monthly payments equal to 20% of all deposits credited to Plaintiff's account

during the preceding month, but only when the amount in the account exceeds \$10. These payments must continue until the \$350.00 filing fee is paid in full. *Id.* § 1915(b)(2).

The Clerk is **DIRECTED** to send a copy of this Order to the El Paso County Sheriff's Department to ensure that the custodian of Plaintiff's inmate trust account complies with the portion of 28 U.S.C. § 1915 pertaining to payment of the filing fee. If Plaintiff is transferred from his present place of confinement, the custodian of his inmate trust account **MUST** ensure that a copy of this Order follows Plaintiff to his new place of confinement for continued compliance with this Order. All payments made in compliance with this Order must clearly identify Plaintiff's name and the case number as shown on the first page of this Order, and must be mailed to: Clerk, U.S. District Court for the Middle District of Tennessee, 719 Church Street, Nashville, TN 37203.

II. Initial Review and Referral

Upon initial review, the Court concludes that Plaintiff has stated a claim of racial discrimination against Steward Wagner based on Wagner allegedly firing Plaintiff from his kitchen job at TTCC, and claims of retaliation against Officer Spence and Captain Smith based on their alleged actions following the alleged assault of Plaintiff at TTCC on January 11, 2023. Plaintiff may proceed with his request for monetary relief based on these claims.

All other Defendants, claims, and requests for relief are **DISMISSED**.

The Court's determination that the Amended Complaint states a colorable claim for purposes of this initial screening does not preclude the Court from dismissing any claim at any time for the reasons set forth in 28 U.S.C. § 1915(e)(2), nor does it preclude any remaining Defendant from filing a motion to dismiss any claim under Federal Rule of Civil Procedure 12.

This case is **REFERRED** to the Magistrate Judge to oversee service of process, enter a scheduling order for the management of the case, dispose or recommend disposition of any pretrial

motions under 28 U.S.C. §§ 636(b)(1)(A) and (B), and conduct further proceedings, if necessary, under Rule 72 of the Federal Rules of Civil Procedure and the Local Rules of Court.

III. Motion Including a Jury Demand

Plaintiff's motion including a jury demand (Doc. No. 7) is **DENIED as moot**. But as a practical matter, pursuant to Plaintiff's demand in the Amended Complaint, any claims in this case that reach the point of trial will be heard by a jury.

IV. Instructions to Plaintiff

There are three Defendants remaining in this case: Steward Wagner, Officer Spence, and Captain Smith. It is Plaintiff's responsibility to ensure that all Defendants are served with summons and the Complaint. The Clerk is **DIRECTED** to send Plaintiff a service packet (a blank summons and USM 285 form) and the Court's Information Sheet for pro se prisoners titled "Service of Process in Civil Rights Cases."¹

Plaintiff **MUST** complete a service packet for each Defendant and return it to the Clerk's Office within **30 DAYS** of the date this Order is entered on the docket. To return a completed service packet in person or by mail, the Court's address is: U.S. District Court for the Middle District of Tennessee, 719 Church Street, Nashville, TN 37203. Upon return of the completed service packet, **PROCESS SHALL ISSUE**.

Failure to return completed service packets by the deadline could lead to dismissal of this case, but Plaintiff may request more time to comply with this Order, if necessary. Also, this case may be dismissed if Plaintiff fails to notify the Clerk's Office of any change in address.

¹ Additional resources for pro se litigants, including forms, handbooks, and information sheets, are available on the Court's website. See <https://www.tnmd.uscourts.gov/representing-yourself-federal-court>.

IT IS SO ORDERED.



ELI RICHARDSON
UNITED STATES DISTRICT JUDGE